APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD)**: November 19, 2007**

B. DISTRICT OFFICE, FILE NAME, AND NUMBER**: Walla Walla District, Waterstone #4; Bigelow, Jeremiah; NWW 2006-3300148; Evaluation is for Sites #1 and #2.**

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Idaho County: Jefferson City: north of Rigby
Center coordinates of site: Lat. 43.70628938 Long.-111.91097175.
Universal Transverse Mercator: Zone 12; Northing 4839439; Easting 426602
PLSS: SENW, Section 6, Township 4 North, Range 39 East, B.M.
Name of nearest waterbody: unnamed tributary to Dry Bed of Snake River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Dry Bed of the Snake River
Name of watershed or Hydrologic Unit Code (HUC): HUC 17040201
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☐ Office (Desk) Determination. Date:
☒ Field Determination. Date: March 27, 2007

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** *"navigable waters of the U.S."* within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. Waters of the U.S.
   a. Indicate presence of waters of U.S. in review area (check all that apply): [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☒ **Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs**
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. Identify (estimate) size of waters of the U.S. in the review area:
   Non-wetland waters: linear feet: width (ft) and/or (Approximate only) Pond at Site 1 is 0.15 acres and Pond at site 2 is 0.12 acres.
   Wetlands: (Approximate only) Site 1 contains 1.44 acres wetland and Site 2 contains 0.31 acres wetland.

   c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual.
   Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):[3]
   ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain:

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW
Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent": .

B. **CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY)**:

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:
Watershed size: Unknown size of original watershed as the adjacent landscape has been substantially and historically altered. Currently landscape is very flat and bisected by irrigation ditches.
Drainage area: Approximately 3 acres.
Average annual rainfall: 10 to 12 inches average annual precipitation.
Average annual snowfall: Approximately 8 to 16 inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through 1 tributaries before entering TNW.

Project waters are **1-2** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **1 (or less)** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: No.

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Identify flow route to TNW[5]: Site 2 Wetland drains approximately 30 feet to Site 1 Wetland which drain via underground connection of about 30 feet to Site 3 wetland and then flows through a culvert in county road to an unnamed tributary to Dry Bed of the Snake River which is an RPW with defined bed and banks. The unnamed tributary flows approximately 1.5 miles downstream to Dry Bed, a TNW water which flows into the Snake River. Dry Bed is a high flow channel of the Snake River which is controlled by a headgate. Dry Bed is navigated by boats, including canoes and rafts.
Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☐ Natural
☐ Artificial (man-made). Explain:
☒ Manipulated (man-altered). Explain: The RPW (unnamed tributary to Dry Bed) has been altered by past farming activities to straighten portions of the channel and pipe approximately 300 feet. The channel overall, however, retains its natural bed with wide meanders.

Tributary properties with respect to top of bank (estimate):
Average width: **4 feet**
Average depth: **1 2 feet**
Average side slopes: **2:1 or flatter**

Primary tributary substrate composition (check all that apply):

☒ Silts	☐ Sands	☐ Concrete
☐ Cobbles	☒ Gravel	☐ Muck
☐ Bedrock	☒ Vegetation. Type/% cover: Emergent and shrub (varies) **90%**	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: **stable**.
Presence of run/riffle/pool complexes. Explain: **No.**
Tributary geometry: varies in location. **Sections have been straightened and other areas meander**.
Tributary gradient (approximate average slope): **very flat**

(c) Flow:
Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **1**
Describe flow regime: **The volume and flow in the unnamed tributary to Dry Bed depend on adjacent irrigation practices.**
Other information on duration and volume: .

Surface flow is: **Discrete in RPW (unnamed tributary to Dry Bed).** Characteristics: .

Subsurface flow: **Unknown**. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[6] (check all indicators that apply):

☐ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☐ destruction of terrestrial vegetation
☐ shelving	☐ the presence of wrack line
☐ vegetation matted down, bent, or absent	☐ sediment sorting
☒ leaf litter disturbed or washed away	☐ scour
☐ sediment deposition	☐ multiple observed or predicted flow events
☐ water staining	☒ abrupt change in plant community
☒ other (list): **Water level varies with regional irrigation practices**.	

☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☐ High Tide Line indicated by:	☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects	☐ survey to available datum;
☐ fine shell or debris deposits (foreshore)	☐ physical markings;
☐ physical markings/characteristics	☐ vegetation lines/changes in vegetation types.
☐ tidal gauges	

[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
[6] A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
[7] Ibid.

☐ other (list):

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: **Unknown**.
Identify specific pollutants, if known: .

(iv) Biological Characteristics. Channel supports (check all that apply):
☐ Riparian corridor. Characteristics (type, average width): .
☒ Wetland fringe. Characteristics: **Varies in width along RPW from 5 feet per side to over 25 feet.**
☐ Habitat for:
☐ Federally Listed species. Explain findings: .
☐ Fish/spawn areas. Explain findings: .
☐ Other environmentally-sensitive species. Explain findings: .
☒ Aquatic/wildlife diversity. Explain findings: **Adjacent uplands have been cleared for farming leaving the RPW channel and wetlands as corridor and refuge for small mammals and birds.**

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:
(a) General Wetland Characteristics:
Properties:
Wetland size: (Approximate only) **Site 1 contains 1.44 acres wetland and Site 2 contains 0.31 acres wetland**.
Wetland type. Explain: **Palustrine Emergent.**
Wetland quality. Explain: **Low quality due to past alterations, current location within an urbanizing area and concurrent reduction in opportunity for uses by wildlife. Past alterations include excavation of the natural wetland to form ponds**.
Project wetlands cross or serve as state boundaries. Explain: **No.**

(b) General Flow Relationship with Non-TNW:
Flow is: **No Flow** . Explain: **Wetlands at sites 1 and 2 are wet from May to September. Water volume and depth in the wetlands depends on surrounding land irrigation and irrigation flow in leaking adjacent irrigation ditch. There is a base elevation of water in the ponds which is likely less than surrounding wetlands and this is likely due to regional water table rise concurrent with flow in Dry Bed and irrigation cycle. When there is substantial groundwater rise and leakage from canal, Site 1 and 2 wetlands are wet because water is backed up by a man-made earthen berm which forms the foundation for the concrete irrigation ditch. Water seeps underground from Site 2 to Site 1 Wetlands through this berm about 30 feet. Water seeps underground from Site 2 to Site 3 Wetlands where water backs up by a county road and becomes Site 3 Wetlands. From Site 3, flows through a culvert under the county road, meanwhile accumulating more irrigation runoff, and enters a discrete channel of the RPW (unnamed tributary to Dry Bed).**

Surface flow is**: Not present**
Characteristics: **Only flows when sufficient canal leakage**.

Subsurface flow: **Yes**. Explain findings: presumption based on short distance to travel under berm.
☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:
☐ Directly abutting
☒ Not directly abutting
☐ Discrete wetland hydrologic connection. Explain: .
☐ Ecological connection. Explain: .
☒ Separated by berm/barrier. Explain: **Man-made earthen berm blocks surface flows from Site 2 wetlands which would otherwise flow into Site 1 Wetlands. The man-made berm also blocks surface flows from Site 1 wetlands to Site 3 wetlands which flow into the unnamed tributary to Dry Bed**.

(d) Proximity (Relationship) to TNW
Project wetlands are **1-2** river miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from TNW.
Flow is from: **No Flow.**
Estimate approximate location of wetland as within the **100 - 500-year** floodplain.

(ii) Chemical Characteristics:
Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: **Unknown**.
Identify specific pollutants, if known: .

(iii) Biological Characteristics. Wetland supports (check all that apply):

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☒ Vegetation type/percent cover. Explain: **75% Palustrine Emergent.**
- ☒ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☒ Aquatic/wildlife diversity. Explain findings: **Area may be used by migratory waterfowl, amphibians, invertebrates, birds and small mammals.**

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **4 (see list below)**

Approximately **5** acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

	Directly abuts? (Y/N)	Size (in acres)
Downstream Site on RPW	**Yes**	**2.2**
Site 1	**No**	**1.44**
Site 2	**No**	**0.31**
Site 3	**Yes**	**0.78**

Summarize overall biological, chemical and physical functions being performed: **Wetlands adjacent to the unnamed tributary to Dry Bed provide habitat for small animals and water quality filtering functions. The non-abutting wetlands provide a path for agricultural pollutants to enter tributary and eventually enter the Snake River which is a TNW. The abutting wetlands provide flood attenuation, water quality improvements, and habitat for wildlife**.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs**.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: The significant nexus evaluation demonstrates that the RPW and its adjacent wetlands impact the physical, chemical, and biological integrity of a downstream TNW. **Wetland Sites 1 and 2 provide detention and attenuation of runoff and floodwaters from the road and surrounding upland, however, this function is very limited due to the small size of the drainage area. Also,**

Sites 1 and 2 alone provide limited feeding, nesting, and rearing habitat and lifecycle support functions for birds and waterfowl and small mammals which may be present in the Dry Bed of the Snake River.

Viewed in combination, the RPW and its adjacent wetlands provide: 1) detention and attenuation of runoff and floodwaters from the site and the adjoining road and uplands; 2) convey and filter sediments and other pollutants from the surrounding agricultural fields and roads to the TNW; and 3) provide feeding, staging and resting habitat for waterfowl that also use Dry Bed of the Snake River, its tributaries, and the Snake River. Therefore the tributary, in combination with all of its adjacent wetlands described in Section III.B.3. above, impact a downstream TNW and have a significant nexus to the TNW.

D. **DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):**

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. RPWs that flow directly or indirectly into TNWs.
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

     Provide estimates for jurisdictional waters in the review area (check all that apply):
     - ☐ Tributary waters: linear feet width (ft).
     - ☐ Other non-wetland waters: acres.
       Identify type(s) of waters: .

3. Non-RPWs[8] that flow directly or indirectly into TNWs.
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
   - ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
     - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
     - ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.
   - ☒ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

     Provide acreage estimates for jurisdictional wetlands in the review area**: Site 1 contains 1.44 acres wetland surrounding a 0.15 acre pond. Site 2 contains 0.31 acre wetland surrounding a 0.12 acre pond. Sites 1 and 2 are adjacent (neighboring) to an RPW waterway (unnamed tributary to Dry Bed) which drains into a TNW (Dry Bed of the Snake River). Sites 1 and 2 are not isolated in the pre-Rapanos sense because there is close proximity to a wetland (neighboring, Site 3) which is in part of the complex of including Sites 1 and 2. Sites 1 and 2 historically flowed into Site 3 wetlands and downstream into Dry Bed. The berm constructed to support the irrigation ditch now blocks Site 1 and 2 wetlands from flowing on the surface downstream.**

[8]See Footnote # 3.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.[9]

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

☐ Demonstrate that impoundment was created from "waters of the U.S.," or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]

☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
☐ Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds:
☐ Other non-wetland waters: acres. List type of aquatic resource:
☐ Wetlands

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: .
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: .

SECTION IV: DATA SOURCES.

[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.*

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Lone Goose Environmental LLC**
- ☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☐ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters' study: .
- ☐ U.S. Geological Survey Hydrologic Atlas: .
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name: .
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
- ☐ National wetlands inventory map(s). Cite name: .
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): 2004 aerial photos from GIS..
  or ☒ Other (Name & Date):Onsite photos taken by Corps on March 27, 2007.
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☐ Other information (please specify): .

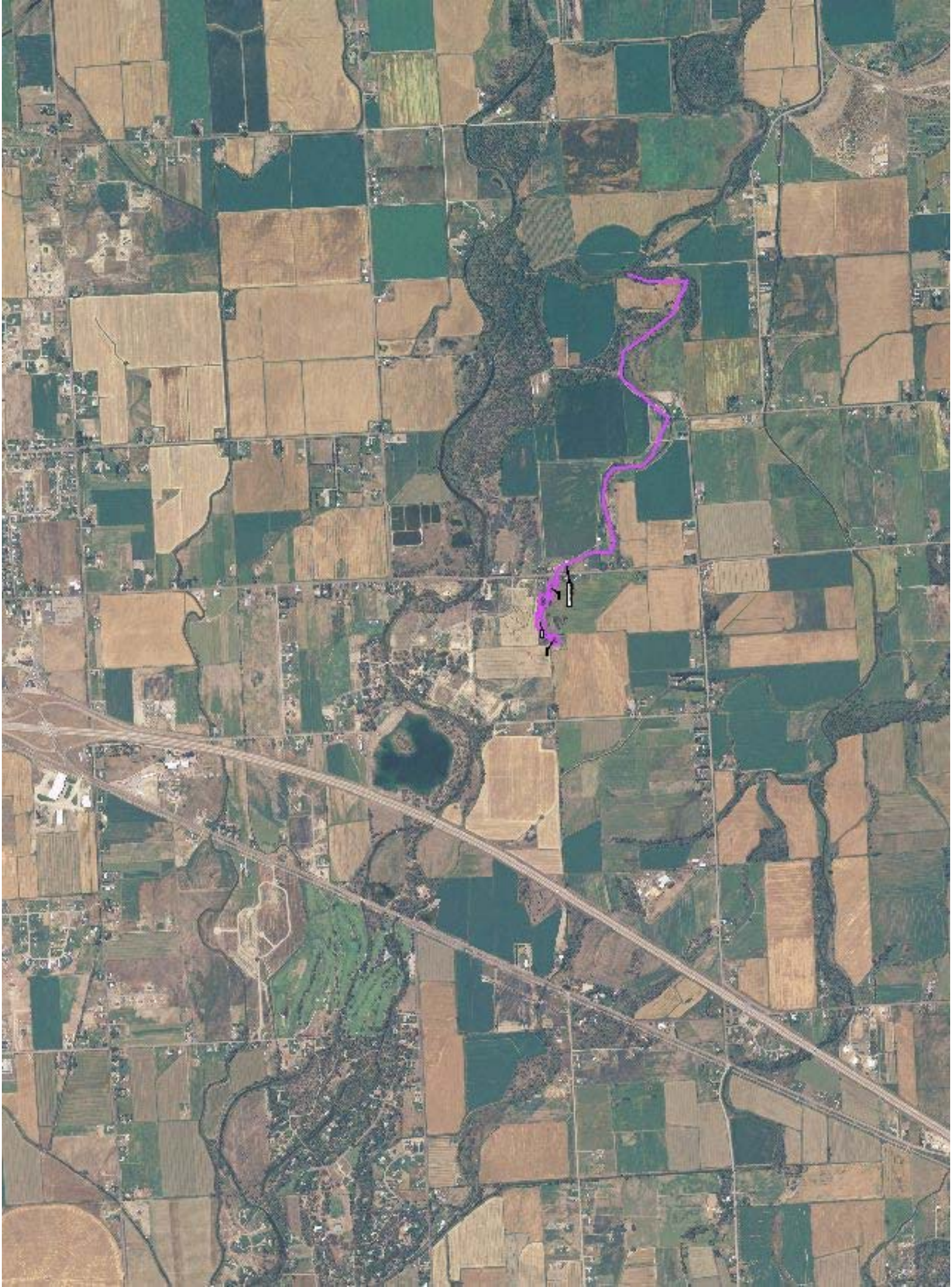
B. ADDITIONAL COMMENTS TO SUPPORT JD:

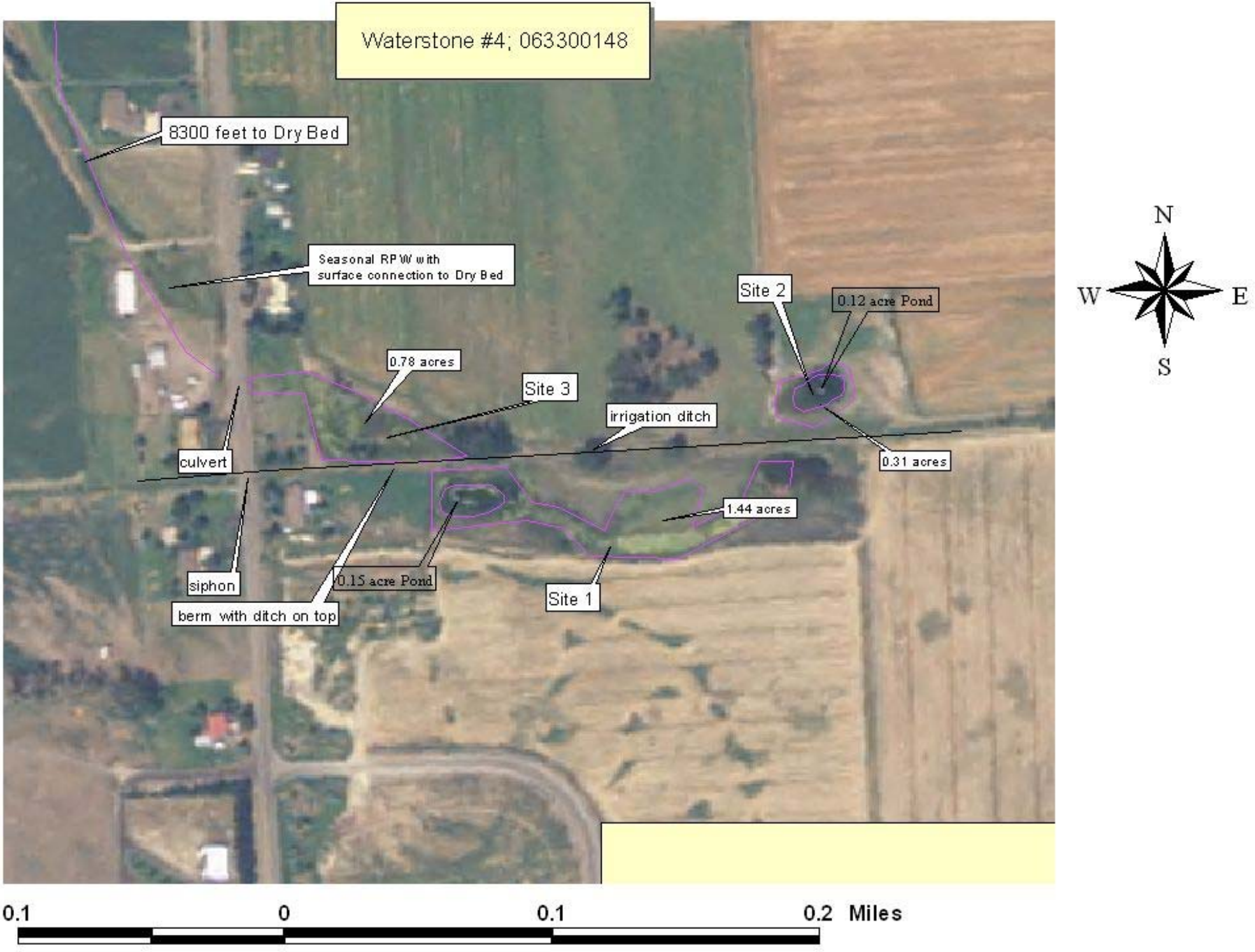
Wetland Sites 1 and 2 (subjects of this JD Form) are wetlands surrounding small ponds. The wetlands are fed by groundwater and leakage from an irrigation ditch that traverses the property and from surrounding upland. Both wetlands were dug for borrow and recreation uses and blocked by a man-made irrigation ditch. Both Sites 1 and 2 are wet for at least 3 months during the irrigation season. Sites 1 and 2 do not have a surface hydrologic connection to other waters.

Wetland Site 3 (not subject of this JD Form) flows through a culvert under a road and into an unnamed tributary to Dry Bed (RPW) and is an adjacent abutting wetland to the RPW. Neither Wetland Site 1 nor Wetland Site 2 flow into Wetland Site 3.

Sites 1 and 2 are neighboring and therefore adjacent to an unnamed tributary to Dry Bed of the Snake River (RPW). Site 1 is separated from the unnamed tributary by a berm which supports the irrigation ditch. Water from Site 1 flows subsurface from the wetland to the other side of the berm for about 30 feet before surfacing in Wetland 3. Wetland Site 2 is separated from Wetland Site 3 by upland, and from Wetland Site 1 by the berm therefore Wetland Site 2 is also adjacent to the unnamed tributary to Dry Bed but does not abut the unnamed tributary. Water from Site 2 flows subsurface from the wetland to the other side of the berm for about 30 feet before surfacing in Wetland 1.

Historically, Sites 1, 2 and 3 were likely connected on the surface as evidenced by the aerial photo which shows the drainage as a flood scour or historic channel. The earthen fill berm supporting the irrigation ditch now crosses the property blocking surface flows between Sites 1 and 2 and downstream waters. Only subsurface flows connect Sites 1 and 2 to Site 3 via flow under this earthen berm. The berm is about 30 feet wide and a concrete-lined irrigation ditch runs along the top of the berm. The ditch leaks and provides water to Sites 1, 2, and 3. The ponds may be used by waterfowl, birds, amphibians, invertebrates and small mammals, all of which could move down gradient to flowing waters.




Waterstone #4; 063300148
8300 feet to Dry Bed
Seasonal RPW with surface connection to Dry Bed
Site 2
0.12 acre Pond
0.78 acres
Site 3
irrigation ditch
culvert
0.31 acres
1.44 acres
siphon
0.15 acre Pond
Site 1
berm with ditch on top
N
W
E
S
0.1
0
0.1
0.2 Miles